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REPORTS

REPORT ON THE XXV INTER-AMERICAN BAR ASSOCIATION CONFERENCE

JOHN O. DAHLGREN*

The Federación Nacional de Barras, Colegios y Asociaciones de Abogados of Mexico hosted the XXV Conference of the Inter-American Bar Association¹ (the IABA Conference) in Acapulco. The Mexican earthquake changed the IABA Conference dates which limited attendance, but the working sessions progressed well with excellent special programs. Timely and substantive resolutions were considered by the Committees and approved by the IABA Conference. One resolution, the *Declaration of Acapulco* reflects the IABA members' resolve to intensify efforts toward the maintenance of peace through the administration of justice. The IABA members are urged to publicize the *Declaration of Acapulco* and other appropriate resolutions.

The Attorney General of the Republic, Dr. Sergio Garcia Ramirez (Dr. Garcia Ramirez was representing Mexico's President, Miguel de la Madrid) addressed the opening session of the IABA Conference. Other speakers included Lic. Jorge Luis Pascual, President of Colegios y Asociaciones de Abogados; Lic. José Luis Siqueiros, President of IABA; Dr. William W. Falsgraf, President of the American Bar Association; and Lic. Alfredo Fournier, Chairman of the IABA Executive Committee. Alejandro Cervantes Delgado, Governor of Acapulco; and Alfonso Argudin Alcaraz, Mayor of Acapulco were among those attending the IABA Conference. Lic. Luis Octavio Porte Petit, Mexico's Deputy Attorney General, was the main speaker at the closing session of the IABA Conference.

At a special ceremony, Mayor Alfonso Argudin Alcaraz de-

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1. This report is an extract from the Inter-American Bar Association Newsletter dated January 1986.

clared the delegates to be *Distinguished Guests of Acapulco*. The social program included a luncheon hosted by the Barra de Abogados de Acapulco and the Colegio de Abogados del Estado de Guerrero; a Mexican Night hosted by Acapulco's Mayor; private dinners hosted by several Mexican colleagues; and various receptions, including one hosted by the American Bar Association at the headquarters hotel. In addition, a ladies program was successfully coordinated and held.

Dr. Rafael Eyzaguirre, a prominent Chilean lawyer and former Executive Committee Chairman, was elected president of the IABA. Dr. Eyzaguirre succeeds Lic. José Luis Siqueiros of Mexico. Dr. Eyzaguirre is the Dean of the University of Chile Law School and was a law professor there for 35 years. He is the President of the Inter-American Commercial Arbitration Commission and has represented Chile in various national and international capacities.

Dr. Eyzaguirre addressed the IABA Conference after his election. He said as president he hopes to "continue the path opened by so many illustrious jurists who preceded" him; to adapt the IABA "by-laws to the needs of the world in which we live"; and to adapt the IABA's "legal accomplishments to the new realities that are being imposed by science and technology." Dr. Eyzaguirre advocated the need to "strive for the support of cordial, respectful, joint and fraternal relations among the lawyers of the Western Hemisphere and for the implementation in each of our countries of the principles that inspired the *Declaration of Acapulco*." He stated that,

increasing membership and expanding the Association are goals that we can achieve through persistence, unity, sacrifice and dedication, as long as each of us contributes our intelligence, capability, work and dedication and that we never forget that the life and greatness of an institution depend to a large extent on what its members can contribute to it.

The XXVI IABA Conference is tentatively scheduled for the spring of 1987 in Buenos Aires, Argentina. The XXVI Conference will be hosted by the Federación Argentina de Colegios de Abogados. The IABA Council will meet October 6-7, 1986, in Quito, Ecuador to coordinate plans for the XXVI Conference and to discuss matters of current interest to the IABA. The council meeting will be hosted by Colegio de Abogados de Quito coordinated by Dr. Ricardo Izurieta, the Executive Committee Chairman. IABA members, although not council members, are encouraged to attend the

council meeting.

RESOLUTIONS, RECOMMENDATIONS AND DECLARATIONS

Approved by the

XXV CONFERENCE—INTER-AMERICAN BAR ASSOCIATION²

Resolution 1

Declaration of Acapulco

WHEREAS:

The XXV Conference of the Inter-American Bar Association held in Acapulco, Mexico, November 9-15, 1985, had as its Central Theme *Peace and the Administration of Justice*;

During the Conference, papers and reports were presented dealing with aspects of peacekeeping from the point of view of constitutional law and international law, and also an important contribution was made by a panel on Administration of Justice;

These presentations reflected the great concern on the part of attorneys of the Americas and confirm the existence of a truly collective cognizance of the importance of this subject,

The Conference deemed it indispensable to make known to the peoples of the Americas and of the world the following

DECLARATION

1. Every possible effort must be exhausted to ensure, by all means, the maintenance and reestablishment of internal and external peace, as well as the full effectiveness of the American democratic systems.

2. Respect for the constitutional order of every country and compliance with international treaties and conventions must be a permanent obligation of the legal profession as an integral part of the judicial system to facilitate the peaceful settlement of controversies and conflicts, emphasizing the efforts made by international organizations and the Contadora Group in support of peace in the Americas.

3. Internally, all possible stress must be laid on the fundamen-

2. Resolutions 1,3,4,5,6,7,10,11,12,13,14,16,19 and 20 are translations of the original text.

tal duty of guaranteeing a jurisdictionally and economically independent and efficient administration of justice; a respected administration of justice, to which every individual, and in particular every lawyer, as a part thereof, owes the loyalty, and protection that are essential to its nature.

4. Peace through administration of justice is not attained without a parallel search for minimum socio-economic conditions which permit access to the judicial system.

5. As an integral element in the administration of justice, the lawyer, and his professional colleagues as well, must be assured of personal safety and freedom in the performance of their duties.

6. This document shall be known and published as the *Declaration of Acapulco*.

COMMITTEE I. PUBLIC AND PRIVATE INTERNATIONAL LAW

Resolution 2

Non-International Armed Conflicts

WHEREAS:

There has been an increase in the number of victims in domestic conflicts, particularly among civilians, and

The humanitarian principles enshrined in article 3 found in four of the Geneva Conventions of August 12, 1949 and developed in Protocol II of 1977, relating to the victims of non-international armed conflicts, constitute the basis for the respect of human beings in cases of domestic armed conflict; and the international instruments relating to human rights guarantee the basic protection to human beings,

RESOLVES

1. To recommend to the member associations of the Inter-American Bar Association that they encourage the governments of their respective countries to ratify or accede to the additional Protocols to the Geneva Conventions of 1949, particularly to Protocol II of 1977, concerning the protection of victims of non-international armed conflicts, whose objective is the utmost protection of the victims of such conflicts.

2. To contribute actively to the broadcast dissemination of all instruments and provisions of international humanitarian law re-

lating to the protection of victims of all types of armed conflicts.

Resolution 3

International Border Cooperation

WHEREAS:

International instruments such as the Charter of the United Nations and the Charter of the Organization of American States provide for the principle of international cooperation, and

It is indispensable that said international cooperation be effective in the relations between border states, such as was materialized in the meetings of Governors from Mexico and the United States relating to issues concerning the population living on both sides of the common border,

RESOLVES

To support border cooperation between the American countries for the purpose of studying their common problems and for attaining reciprocal benefits.

Resolution 4

*Condemnation of all Kinds of Pressure on or Violence to
Magistrates and Judges from the American Continent*

WHEREAS:

The Chief Justice of the Supreme Court of Colombia, Dr. Alfonso Reyes Echandia, and several other Magistrates died tragically as a result of a terrorist assault in that Court building;

The Inter-American Bar Association has repeatedly condemned terrorism as a common crime, unacceptable in all aspects, and

It is intolerable that Magistrates and Judges be used for political purposes, since their independence is a necessity in the performance of their duties,

RESOLVES

1. To condemn strongly the murder of the Chief Justice of the Supreme Court of Colombia, Dr. Alfonso Reyes Echandia, and of his fellow Magistrates, lawyers and other persons.

2. To condemn all kinds of pressure on or violence to Magis-

trates and Judges of the American Continent.

COMMITTEE IV. CIVIL LAW, PROCEDURE AND LITIGATION

Resolution 5

Abduction of Minors

WHEREAS:

The abduction of minors is one of the most brutal and subtle forms of child abuse, mistreatment and neglect;

Custody of minors, one of the most pressing issues of contemporary family law, has a special significance when a child is removed illegally from the jurisdiction of the country in which he has habitual residence;

Such removal makes it necessary to regulate the orderly return of said minors to the jurisdiction of the country where they have habitual residence;

The XIV Session of The Hague Conference on Private International Law adopted on September 25, 1980, The Hague Convention on the Civil Aspects of International Child Abduction;

The Organization of American States has asked the Inter-American Children's Institute, a specialized agency of the OAS, to prepare a study and to draft an international legal instrument to govern, within the Inter-American System, the return of children to the country where they lived and from which they were abducted and illegally removed, and

Some countries have approved legislation to regulate the return of abducted children,

RESOLVES

1. To recommend to the American countries which have not done so that they ratify The Hague Convention on Civil Aspects of International Child Abduction.

2. To suggest to the American countries that they approve legislation to govern effectively and rapidly, through summary proceedings, the return of abducted children.

3. To support the Organization of American States and the Inter-American Children Institute in their effort to study and draft an international legal instrument to govern, within the Inter-American System, the return to the country where they had habitual

residence of children abducted and illegally removed from that country.

Resolution 6

Crisis in Family Law

WHEREAS:

The family in its social-legal structure is impaired by the delay caused by excessive formalities imposed by the Judicial and Legislative Powers, causing irreparable social damages, and

Not all members of the Judiciary are experts in Psychology, Psychiatry or social assistance.

RESOLVES

1. To recommend adoption of a codification, autonomous and specialized in Family Law, substantive and procedural, as an incentive for oral proceedings, designed to accelerate the final judicial decisions.

2. To suggest dissemination of the idea of creating a Family Court, specialized, similar to Labor Court, with judges dedicated exclusively to this branch, with direct assistance from related sciences, such as Psychology, Psychiatry and social assistance.

3. To recommend that there be established within the scope of the Judiciary a Commission on Conciliation, composed of three members: a magistrate, a lawyer and an expert in science on human behavior, and that, on behalf of the Public Attorney's Office, in its social function, assistance be provided to Family Court directly by the aforementioned professionals.

COMMITTEE V. COMMERCIAL LAW AND PROCEDURE

Resolution 7

Ratification of the Convention on International Commercial Arbitration

WHEREAS:

International commercial arbitration has become an immediate necessity for the solution of commercial conflicts since it is an effective and fast way to solve such conflicts in accordance with contemporary international trade requirements, and

For adequate publicity of arbitration procedures in the Latin American countries it is also necessary to establish arbitration centers geographically located in the appropriate zones,

RESOLVES

1. To reiterate to the governments of the American States that have not done so, the recommendations to sign and ratify the Inter-American convention on international commercial arbitration and the convention on the extraterritorial validity of foreign judgments and arbitration awards, which have been approved by the First and Second Inter-American Specialized Conferences on Private International Law, CIDIP I and II, held in Panama in 1975 and in Montevideo in 1979, respectively and the New York Convention of 1958.

2. To support the existing arbitration centers and recommend the creation of permanent centers of conciliation and commercial arbitration, national and international, in the American countries, as a means to encourage the practice of settlement of commercial disputes and controversies.

Resolution 8

Telecommunication and Transfer of Technology

WHEREAS:

In recent years there have been significant developments in the technology of telecommunications, including cellular radios and audio-visual transmissions via satellite;

The growth of this high technology has generated new and diverse legal problems and practices, such as international joint ventures, conflicts of laws respecting corporate ownership and transfer of technology, and competition between regional and international satellite communications systems;

These legal and technological developments are having a profound effect on the sound and economic development of telecommunications in South and Central America and the Caribbean, as demonstrated in the telecommunication seminar held at this Conference; and

There is a real need for full discussion of the legal questions, national legislation and implementing regulations, and international cooperation in this field on a continuing basis,

RESOLVES

That the study of the legal aspects of international telecommunication and computer policies be encouraged by the members of the Inter-American Bar Association in their respective countries.

*Resolution 9**I N T E L S A T*

WHEREAS:

That almost all of the states of the Americas are among the 110 members of the International Telecommunications Satellite Organization (INTELSAT);

That the INTELSAT Agreement provides for a single global system of telecommunications satellites which is available to all the nations of the world on a non-discriminatory basis;

That current proposals to establish new telecommunications satellite systems separate from INTELSAT for trans-oceanic and intercontinental service will, if realized, carry substantial traffic which could otherwise be carried by the INTELSAT system, thus raising the question of "significant economic harm" to INTELSAT and its members under article XIV (D) of the INTELSAT agreement; and

That Article XIV (D) of the INTELSAT agreement was designed to safeguard the integrity of the single global satellite system established and owned by INTELSAT and to protect all the users of the INTELSAT system, regardless of size, from the economic harm which would result from the diversion of trans-oceanic and intercontinental traffic from the INTELSAT system to separate satellite systems,

RESOLVES

To recommend to the Governments of the American States:

1. That they join, through the appropriate organs of INTELSAT in which they participate, in the rigorous application to proposed trans-oceanic and intercontinental telecommunications satellite systems of the standard of "significant economic harm" in article XIV (D) of the INTELSAT Agreement, bearing in mind that any economic benefits from such separate satellite systems would be realized only by the more highly developed nations, while

the less developed nations would bear the economic burdens resulting from the diversion of traffic from the INTELSAT system.

2. That all States which are members of INTELSAT not authorize the establishment or use of any separate satellite system which may be found by the Assembly of Parties of INTELSAT to cause "significant economic harm" to the global system of INTELSAT.

3. That they join, through appropriate organs of INTELSAT in which they participate, in exploring ways (including amendment of the INTELSAT Agreement if necessary) to achieve realistic pricing flexibility for INTELSAT in order to enable INTELSAT to compete effectively with new satellite systems which might offer trans-oceanic and intercontinental satellite services.

COMMITTEE VI. CRIMINAL LAW AND PROCEDURE

Resolution 10

Latin American Commitment to Combat Drug Addiction in a Coherent, Joint and Effective Manner

WHEREAS:

A serious problem for the American community is drug addiction that destroys individuals and consequently the people, and

Efforts to combat consumption and traffic of drugs are being made by the American countries and institutions,

RESOLVES

1. To promote joint studies and the creation of a Latin American Organization to coordinate efforts to combat drug trafficking.

2. To exhort the American countries to unify their criteria on punishment for the possession of toxic substances for personal consumption.

3. To sponsor the adoption by each country of special measures for the preservation and cure of the unborn child of addicted parents.

4. To support and promote the concern of governments of the American countries over the improvement of the social and economic conditions of the people, by encouraging the consumer of toxic substances to abstain from drugs and engage in dignified works.

5. To exhort the American countries to adopt measures to prevent drug trafficking with the criteria of achieving uniform legislation and to apply the highest penalty to drug traffickers and to organizations involved in the illegal traffic of drugs.

6. To exhort implementation of international conventions on traffic of drugs.

7. To support the initiative of the Organization of American states in combating the illegal traffic of drugs.

COMMITTEE VIII. DEVELOPMENT AND INTEGRATION

Resolution 11

Foreign Investment

WHEREAS:

Regulatory legislation on foreign investment which makes as a condition to effective investment the obtaining of previous governmental authorization is prevalent in the American continent;

That such regulatory legislation is considered to be redundant, given the simultaneous existence of legal standards in practically all countries in the Americas which prohibit or punish acts considered undesirable for foreign investors, and

The present need of the American countries is for new foreign investment as well as for the return of capital deposited abroad by their nationals which could alleviate the effects resulting from the considerable foreign debt of the region,

RESOLVES

To recommend to the American countries which receive foreign investment to harmonize their legislation in order to promote investments in the sectors of the economy open to private activity, as a form of contributing to the development of the respective nations and to the improvement of their economy.

Resolution 12

Support and Dissemination of Information on Productive Investment

WHEREAS:

There is a need to encourage greater development in interna-

tional trade and commerce, thus stimulating the increase of investment in Latin America, and

It is important to find appropriate means to improve the present situation concerning regional foreign debts in order to obtain greater support from international development organizations, in cooperation with the private sector and their financing agencies,

RESOLVES

To urge members of the legal profession that, through their bar associations and in cooperation with the chambers of commerce and other organizations that represent private sectors, they promote and support dissemination of information which will stimulate a favorable climate for productive investment through liberalization of the flow of international commerce, thereby facilitating regional development and an effective management of credit resources.

Resolution 13

Free Transit of Workers

WHEREAS:

The free transit of workers is important for Latin American integration,

RESOLVES

To recommend the study of systems and methods which guarantee the free transit of workers legally admitted in the Latin American countries, providing them and their immediate family with the same rights, privileges and obligations as nationals, and preserving acquired benefits despite a change of residence to another country.

COMMITTEE IX. LEGAL EDUCATION AND THE LEGAL PROFESSION

Resolution 14

Help to Persecuted Lawyer

RESOLVES

To recommend:

1. That in accordance with the principles of professional solidarity and humanitarian support, systems be established to assist

lawyers persecuted for political, ideological, racial and professional reasons.

2. That a Commission be established to assist promptly the President of the Inter-American Bar Association when it is necessary to defend a lawyer.

3. That such Commission be named in honor of Dr. Adolfo G. Rocca, a prominent Argentine lawyer now deceased.

COMMITTEE XII. HUMAN RIGHTS

Resolution 15

Economic, Social and Cultural Rights

WHEREAS:

All governments ought to pursue the goal of providing full opportunities for the development of the maximum potential of all persons, communities and peoples;

Recognizing this goal, the United Nations system for the protection of human rights has adopted two International Conventions, one containing economic, social and cultural rights, the other one, civil and political rights - thus recognizing that similar consideration ought to be given to both sets of rights since they help to achieve the aforementioned goal;

The American states have also pledged themselves to the respect of civil and political rights and to the progressive implementation of economic, social and cultural rights, without having so far enumerated the latter in the American Convention on Human Rights, and

The Organization of American States has circulated to its member states, for their comments, a draft optional protocol which contains a proposed enumeration of economic, social and cultural rights,

RESOLVES

1. To support the Organization of American States initiative towards the preparation of an optional protocol to the American Conventions on Human Rights, which would enumerate and define the economic, social and cultural rights of all individuals and peoples of the Americas.

2. To recommend that the American states give the most seri-

ous consideration to the draft optional protocol, with special attention to the possible improvement of the mechanisms for implementation contained therein.

3. To encourage the individual members and member associations of the Inter-American Bar Association, as well as the governments of the American states, to develop initiatives towards the realization of the goals embodied in the draft optional protocol on economic, social and cultural rights.

Resolution 16

Torture as an International Crime

WHEREAS:

Torture in American countries constitutes a serious violation of human rights;

There is a need to express international repudiation of all forms of torture which must be considered an international crime, and

A draft convention to prevent and punish torture has been prepared by the Organization of American States,

RESOLVES

To condemn all forms of torture and to recommend the approval of the Draft Inter-American Convention to Prevent and Punish Torture, which has been prepared by the Organization of American States.

Resolution 17

Draft Inter-American Convention to Facilitate Disaster Assistance

WHEREAS:

In August 1984, the Inter-American Juridical Committee of the Organization of American States unanimously approved, with some amendments, a draft Inter-American Convention to Facilitate Disaster Assistance, which the Inter-American Bar Association had referred to it;

In accord with the recommendation of the Inter-American Juridical Committee, the Secretary General of the Organization of American States sent the aforementioned draft convention to the

member states of the Organization of American States for their observations, and

Such a convention will facilitate disaster assistance for the relief of human suffering and the saving of lives and will help enhance the spirit of brotherhood and cooperation among the American states,

RESOLVES

1. To recommend to the American states, as well as to the individual members and member associations of the Inter-American Bar Association that they carefully review the draft convention, its purpose and functions.

2. To suggest to the American states that they send their observations, as soon as possible, to the Organization of American States.

3. To support the adoption of a regional convention on this matter, as finally agreed upon.

4. To recommend to the American states that, in the meantime, they continue preparations for future disasters, for requests for assistance from other states, and for mechanisms for the coordination of international and domestic assistance in case of disaster.

Resolution 18

Review of Legislation Concerning Health Care and Universal Immunization

WHEREAS:

The right to life is recognized in universal and regional conventions on human rights;

The Pan American Health Organization (PAHO) has determined that most of the children who die each year in the Americas could have their lives saved by inexpensive and available measures of primary health care;

The Pan American Health Organization is working towards the United Nations World Health Organization's goal of universal immunization of all children, and

Lawyers, through their legal education, governmental and organizational work, and leadership roles, have unusual opportunities

and responsibilities to help lead national efforts to mobilize governmental and local resources to apply primary health care measures for saving lives,

RESOLVES

1. To recommend a review of national laws and regulations of the American countries with a view to allocate appropriate resources to primary health care measures and the saving of many more lives.

2. To urge IABA members to encourage and assist in this review of legislation and to consider the community mobilization role they can play in helping to assure that primary health care is available in all communities in their countries, particularly universal immunization of all children by the year 1990.

Resolution 19

The Lawyer and Human Rights

WHEREAS:

The defense of human rights has been sustained particularly by certain organizations, such as the United Nations Commission on Human Rights, the Inter-American Commission on Human Rights, Amnesty International, the Inter-American Bar Association Committee on Human Rights, and also by some bar associations and other organizations of lawyers,

RESOLVES

1. To suggest to the member associations of the Inter-American Bar Association that they consider the possibility of establishing in their respective associations a Committee on Human Rights.

2. To suggest to individual members of the Inter-American Bar Association that they support the establishment of a Committee on Human Rights in their respective bar associations which are not members of the IABA.

MISCELLANEOUS

Resolution 20

Contribution of the Inter-American Bar Association in Disaster

*Assistance***WHEREAS:**

Not all countries in the American continent have legislation, organizations or effective plans in case of disasters; and

Mexico, Puerto Rico and Colombia within less than a two month period have been victims of disasters with considerable losses in human lives and materials,

RESOLVES

To recommend to member associations and individual members of the Inter-American Bar Association:

1. That they make an urgent appeal to the lawyers of this continent so as to obtain, as soon as possible, the strengthening or creation of effective means for organizing assistance in their countries in cases of disaster.

2. That they undertake studies in their respective countries in order to determine the quality and effectiveness of any existing legislation, organizations and plans applicable in cases of disasters.

3. That they commit themselves to being a decisive factor in achieving improvement in cases of disaster assistance.

4. That they contact colleagues, representatives of associations and individual members from other countries so as to take advantage of experience gained in this field in order to be better prepared to save lives and avoid losses of vital human resources when disasters occur in the Americas.

*Resolution 21**Amendment to By-Laws***WHEREAS:**

Article I. entitled *National Associations* of the By-laws of the Inter-American Bar Association does not recite what is to happen to a nation-wide association or other association once recognized by the Council for the purpose of representation of a nation or self-governing dominion in the Conference and in the Council of the Association when a national association thereafter appears and is duly recognized by the Council along with the new national association, and,

It appears just and proper and will maintain harmony to con-

tinue recognition of any such original nation-wide or other association as a co-representative in Conferences and in the Council along with the new national association,

RESOLVES

To amend article I of the Inter-American Bar Association By-laws to add the following wording after the word "Council", in line six, to-wit: provided, however that if, after a regional or other qualified Bar Association has once been a founding member, a National Bar Association thereafter becomes qualified to join this Association, the latter shall be admitted to do so on proper application (to be determined by the Council by majority vote) as a co-equal member to represent its country. In such an event the original founding member shall become a regional member with one vote and shall be entitled to its separate representation in each Conference and on the Council. This provision shall be retroactive to November 12, 1985.